

workers gained, we have more recently seen a higher rise in the earnings of skilled than unskilled workers in developing countries. Trade can both reduce poverty and increase inequality: this seeming paradox is not always easy to get across to students, and this essay will be valuable for teachers. In addition, Rivera-Batiz looks at the gender impact of trade expansion suggesting that different countries have had different experiences, with women gaining in some countries where they have been able to get manufacturing jobs, but losing in others as traditional activities have been displaced.

Fink's chapter on TRIPs and TRIPs-plus agreements in FTAs makes clear that enhanced IPR provisions cannot really be justified in terms of long-term benefits to developing countries; rather they are a trade-off, the price for market access exacted by developed negotiating partners. However, Fink also notes that the benefits of negotiated market opening may disappear with the general trend to lower market access barriers, whereas the strengthened IPR disciplines are permanent.

Henson and Jaffee very nicely rehearse an argument they have developed elsewhere on SPS (food safety) norms. We should not think of mandatory safety standards only as 'barriers'. Rather, these standards have real consumer protection goals as well and can act as catalysts to higher quality for exporters.

Frischtak and Newfarmer cover investor-state dispute settlement provisions, which economists rarely discuss. They argue that there is some evidence that such provisions stimulate investment, but occasionally at a serious price for some developing countries. This should probably be read by those interested in the proposed EU-US TTIP deal. This essay sits alongside a masterly and up-to-date account of the WTO dispute settlement system by Howse.

Economists would also gain by reading the chapter by Trachtman on anti-dumping and safeguards: Trachtman discusses what kind of welfare economics could be discerned behind otherwise seemingly economically irrational anti-dumping measures, going back to Corden's 'conservative social welfare function'. Charnowitz's chapter on trade and the environment is more legalistic, but raises very important economic questions about the appropriateness of WTO rules as they stand.

Overall, this is a book that anyone teaching trade policy would want in their library. The editors have done a marvellous job and the volume is rewarding and a pleasure to dip into. Nevertheless, its price (£125) probably makes it difficult to use as a core textbook until a paperback edition appears.

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## The World Trade Organization and International Trade Law: Antidumping, Subsidies and Trade Agreements

by Gary N. Horlick

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The WTO has received a needed boost from the relative success of the WTO Ministerial Conference in Bali in December 2013. Reading the texts of the Bali Package, one is struck by the degree to which more or less the same issues remain contentious in trade negotiations over the years and, indeed, decades. The past, it has been said, is a different

country, where they do things differently. This does not appear to apply to the multilateral trading system.

There are few people better qualified than Gary Horlick to guide a reader through the issues that recur in multilateral trade negotiations, especially with respect to anti-dumping, subsidies, and the legal aspects of the system, and few better guidebooks than this collection of Horlick's essays and articles over the years. Horlick has over 30 years' experience in this field as a US trade official, legal practitioner, academic, and WTO panellist. This volume collects his writings over the length and breadth of his career, with articles dating back to 1984. There are many different co-authors, but Horlick's voice remains constant.

The book is organized into three parts. The first collects Horlick's writings on the subject of anti-dumping, an area in which he has extensive practical experience (although, slightly frustratingly, these articles are not in chronological order). The second contains articles on the issue of subsidies, which is perhaps the field in which Horlick is most known, and the third contains articles on a variety of other systemic issues in trade law.

The articles on anti-dumping in Part I explain clearly how, over the past 40 years or so, anti-dumping measures have become the 'escape clause' of choice of WTO Members. In Horlick's words, anti-dumping has been 'welcomed around the world as a legitimated form of protection which can be applied when necessary politically' (page 68). In 'Antidumping Policy as a System of Law', Horlick and Steven Sugarman provide a concise critique of the rationales for anti-dumping policy, noting that even proponents of anti-dumping consider it to be 'a system of second best' (page 128).

A short article titled 'A Personal History of Zeroing' also provides an interesting coda to the long-running saga of challenges in the WTO dispute settlement process to the methodology of 'zeroing' out negative results in calculating overall dumping margins in anti-dumping proceedings. For better or worse, the interpretative method of Articles 31 and 32 of the Vienna Convention on the Law of Treaties precludes extensive recourse to the negotiating history in interpreting the provisions of the WTO agreements. For those with a common law background that are used to relying more heavily on the legislative history, this can be frustrating. It is therefore interesting to read Horlick's personal view of the negotiating history of the 'fair comparison' requirement of Article 2.4 of the WTO Anti-dumping Agreement. In 'zeroing' disputes, it was argued that the introduction of this provision in the Uruguay Round was not intended to preclude the use of zeroing. In Horlick's view, the 'fair comparison' requirement was intended as a 'catch-all' provision that would ban all practices, including 'zeroing', that result in a 'tilt' in the calculation of dumping margins (page 64).

Part II on subsidies contains several articles that explain the disciplines of both US and WTO law on subsidies. These articles are to be recommended for any reader that wants a clear and accessible guide to the subject. Perhaps the most interesting, however, is a comparatively recent article on 'WTO Subsidies Disciplines During and After the Crisis' (co-authored with Peggy A. Clarke). As its name suggests, this article, published in 2010, examines how WTO disciplines on subsidies survived the financial crisis in 2007–2009 when, in the words of the authors, 'governments poured money into economically necessary or politically deserving industries' (page 343). The authors conclude that the ban on export subsidies in the WTO Agreement on Subsidies and

Countervailing Measures ('SCM Agreement') was mostly effective, although less so with respect to *de facto* export subsidies. The authors recommend further discussion about when a *de facto* export subsidy may be deemed to occur (page 352).

With respect to 'local content' or 'import substitution' subsidies, which are also prohibited under Article 3.1(b) of the SCM Agreement, the authors state that there was little overt use of these measures during the crisis. Instead, governments used 'buy national' provisions in more general subsidies, which may or may not violate the prohibition on import substitution subsidies (page 349). The authors note that Article 3.1(b), unlike the provisions of Article 3.1(a) governing export subsidies, contains no express prohibition on *de facto* import substitution subsidies. Instead, the Appellate Body, in *Canada–Autos*, read such a prohibition into the language. Interestingly, the authors state that according to one of the drafters of the SCM Agreement, the initial omission of language prohibiting *de facto* import substitution subsidies was an error but that the decision not to rectify this error in the final text was deliberate (page 348). The authors recommend that the Appellate Body's interpretation be explicitly added to the text of the SCM Agreement (page 352). With respect to domestic subsidies, the authors propose a new category of 'green-light' domestic subsidies that would not be subject to WTO disciplines. This category would include subsidies for research and development, regional development in poor regions, natural disaster recovery, and environmental measures (pages 354–355). The authors recognize, however, that it would be necessary to avoid creating too large a loophole in the existing domestic subsidy disciplines.

Part III of the book contains a series of articles on a range of other topics. Some of these deal with predominantly US issues – or multilateral trade issues seen from a US perspective – and should be of considerable interest to readers seeking to understand the internal aspects of US trade policy. Two such articles, albeit short ones, address issues relating to trade and the environment and the prospects for climate change legislation both in the United States and the WTO. These provide interesting ideas on possible means of implementing within the WTO any internationally agreed measures on climate change.

Two further chapters address the issue of problems in compliance in the WTO dispute settlement process. These problems are divided into three categories: 'a lack of incentives for swift compliance, a lack of viable alternatives to trade sanctions, and a lack of consideration for the impact of remedies on private actors' (page 382). While these articles contain an interesting discussion of some of the practical problems relating to compliance, it would have been interesting to have more of Horlick's insights on the trade-off between the beneficial normative effects of the binding dispute settlement process and the flexibility/weakness in remedies that was necessary to achieve and maintain Member support for a binding dispute settlement process.

Of particular interest to this reviewer was the chapter on 'WTO Dispute Settlement from the Perspective of Developing Countries' (co-authored with Katherine Fennell). Horlick has a longstanding interest in this topic. Frieder Roessler, the first Executive Director of the ACWL (*Advisory Centre on WTO Law*), once told me that Horlick was the first person to point out to him, in a discussion at Georgetown University in 1997 or 1998, that the success of the then-nascent WTO dispute settlement system would depend on the availability of legal aid to enable developing countries to participate fully

in the system. It is therefore gratifying that Horlick describes the ACWL as ‘a remarkable success’ and concludes that there is ‘every reason ... to further support and expand activities of this organization, including by pushing the United States and the EU to become Members’ (page 375).

Given the range of the articles in this book, both in time and subject matter, it would have been helpful to have Horlick’s own view of the material, in the form of a concluding article reviewing how time has treated the topics and ideas contained in his articles. The closest thing to such an article is a piece entitled ‘Nonconclusions’, which was actually a summary of a different book, edited by Horlick and others, in which it first appeared. Although focusing less on trade remedies than the current book, this article nevertheless provides a concise summary of the ideas expressed by Horlick in this collection.

To conclude, I would recommend this collection to any reader seeking a solid grounding in the historical background and key issues arising in the WTO over the years with respect to the subjects covered in the book, especially with respect to anti-dumping and subsidies.

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## International Trade and Unemployment: On the Redistribution of Trade Gains When Firms Matter

by Marco de Pinto

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Unemployment has become an important political issue in most countries. Public opinion regards a high unemployment rate as a proof of government failure, and political success is largely dependent on the results that policy-makers achieve in the fight against unemployment.

Trade policy is a significant variable in that equation. International trade and investments link national economies, and such links are considered to be beneficial for the most part. However, they also result in an interdependence that, at times, has harmful effects. One such possible harmful effect is an increased rate of unemployment resulting from trade liberalization. The issue of trade and employment is thus of direct concern to trade negotiators, who – besides the objectives related to market access and trade-inducing domestic policies – also have to care about domestic employment, wages of the home-country workers and social standards (Hoekman and Kostecki, 2009).

Although an extensive economic literature addresses the link between foreign trade and unemployment, we fall short of fully understanding the nature of that relationship. In the case of perfect competition in labor and product markets, the impact of trade liberalization is relatively well known in economic theory. There is also an emerging consensus in the empirical literature that trade liberalization implies a reduction in low-skilled jobs in the high-income countries, an increase in income inequality within the high-income country, and a decrease in income inequality between high-income and low-income countries (Dicken, 2011).